

ORDER NO. 98-045

CLEANUP AND ABATEMENT ORDER
(FILE NO. 105.0152)

Cleanup and Abatement order No. 98-045 requiring Soto Associates, Champion Parts, Inc., Maremont Corporation, and Lois Kipling to conduct site assessment and cleanup, and abate the effects of contaminants discharged to soil and ground water.

The California Regional Water Quality Control Board, Los Angeles Region (Regional Board), finds that:

1. Soto Associates (Soto) has owned the facility located at 825 Lawson Street (the "Property") in the City of Industry, California, since October 26, 1989. Soto bought the Property in a bankruptcy court proceedings. Prior to the sale, an environmental liability assessment was conducted by Fred C. Hart Associates, Inc. (FCHA) by order of the bankruptcy court. This assessment work did not detect chlorinated VOCs in soil matrix samples. Two of three existing buildings on the Property were leased to Industrial Aluminum Trading Company (IATC), an aluminum recycler that has filed for bankruptcy, and the other building to Maxim Lighting as a warehouse.
2. The Property was previously owned by Edward and Lois Kipling (Kiplings) from January 1956 to May 1986. Reportedly, the Kiplings operated a PCE vapor degreaser at the Property when they owned Western Rebuilders. From 1956 to 1968, Auto Parts Exchange, Inc. (Auto) occupied the property and operated a machine shop and auto parts cleaning. Auto was purchased by Maremont Corporation (MC) during 1967. MC is currently owned by Arvin Industries, Inc. Between 1969 and 1982, the Property was occupied by Champions Parts Rebuilders, now known as Champion Parts, Inc. ("Champion").
3. Reportedly, a vapor degreaser was operated with PCE and 1,1,1-trichloroethane (TCA) in Building #1. In November 1989, Soto removed two underground storage tanks. A ground water investigation conducted on a 2.3-acre parcel purchased from the Property indicated the detection of tetrachloroethylene in ground water downgradient from the Property.
4. The site is within the Main San Gabriel Ground Water Basin, which contains permeable sediments having a historic safe yield of 221,000 acre-feet of water per year. The basin is adjudicated and according to the Water Quality Control Plan - Los Angeles River Basin Plan (1994 Revision), water from it is beneficially used for municipal, domestic, industrial and agricultural purposes. The Main San Gabriel Basin provides an average of 98,000 acre-feet of water per year to the Central Basin.
5. Regional Board staff was made aware of soil and ground water contamination at Soto's Property through the San Gabriel Valley Cleanup Program (SGVCP), which after a review of previous subsurface investigation(s), site inspection, and review of subsequent subsurface investigations revealed the presence of soil and ground water contamination at the subject site.

6. The identified soil contamination include 1,1-dichloroethylene (1,1-DCE), tetrachloroethylene (PCE), 1,1,1-trichloroethane (1,1,1-TCA), trichloroethylene (TCE), 1,1-dichloroethane (1,1-DCA), and cis-1,2-dichloroethylene (c-1,2-DCE).
7. Investigation of potential source facilities that were geographically within the surrounding area of contaminated ground water production wells in the La Puente Valley investigation area produced an initial list of firms which included the Property.
8. A site inspection, performed on March 8, 1991, indicated that drums were stored on concrete and asphalt in several areas of the facility. Degraded asphalt was noted on the southern side of the building once occupied by IATC. Paint discharges and drum rim marks were observed on the south side of the building once occupied by Armin Plastics. Also, passive soil gas samplers were installed in four areas of the subject site. Subsequent qualitative analysis of the passive soil gas samples indicated the detection of PCE.
9. As a result of the inspection conducted on March 8, 1991, the review of previous subsurface investigations, and qualitative soil gas results, the facility was directed in a letter dated June 27, 1991, to submit a soil gas investigation work plan by July 31, 1991.
10. In a letter dated July 19, 1991, Cantor & Weinshenk (CW), on behalf of Soto, confirmed a time extension for the submittal of the work plan until August 30, 1991. On September 16, 1991, on behalf of Soto, Environmental Management Associates (EMA) submitted via facsimile transmittal the "Work Plan for Active Soil Gas Survey," dated September 16, 1991. Upon review of the work plan, Board staff conditionally approved the work plan in a letter dated October 9, 1991, and required the submission of a soil gas investigation report by December 9, 1991.
11. On November 13, 1991, EMA submitted the preliminary soil gas investigation results and a notice of soil matrix sampling. In a letter dated December 10, 1991, EMA requested an extension for the submittal of a formal soil gas survey report until January 1992. The submittal of the outstanding soil gas investigation report by February 20, 1992, was required in a Regional Board staff enforcement letter dated February 5, 1992.
12. A report entitled "Active Soil Gas Survey," dated February 19, 1992, was received at this Regional Board on February 20, 1992. This report was submitted by EMA on behalf of Soto. Between November 4 and 9, 1991, Target Environmental Services, Inc. (Target) conducted the required soil gas investigation. Laboratory analysis of soil gas samples resulted in the detection of maximum VOCs concentrations of 36,320 µg/l of PCE at 6' below ground surface (bgs), 2,268 µg/l of 1,1,1-TCA at 6' bgs, 749 µg/l of c-1,2-DCE at 6' bgs, 211 µg/l of TCE at 6' bgs, and 190 µg/l of 1,1-DCE at 6' bgs. Also, up to 4,000 µg/kg

of PCE was detected at 6' bgs in the northwestern corner of the Property. The highest VOCs concentrations were detected in the southeastern area, northwestern corner of the Property, and between buildings #1 and #2. These results indicate that discharges of VOCs tainted liquid waste have impacted the vadose zone at this site.

13. Based on the above findings, Regional Board staff required Soto in a letter dated March 27, 1992, to submit a work plan to conduct a supplemental subsurface soil investigation, ground water investigation, and a site audit by May 8, 1992. On August 31, 1992, Champion submitted via facsimile transmittal a completed site audit questionnaire (SAQ). According to the information included in the SAQ, Champion operated a vapor degreaser with PCE from 1969 to 1978, and with 1,1,1-TCA from 1978 to 1981. Up to 440 gallons of spent solvent was generated on a weekly basis.
14. In a letter dated October 9, 1992, Champion and Maremont informed Regional Board staff that they were willing to partially fund the assessment work providing that an agreement was reached among the four parties (the "Parties"). However, such an agreement had not been achieved. On December 1, 1992, during a meeting held at this Regional Board, Soto's counsel and Regional Board staff discussed the CAO procedures. Soto's representative agreed to continue negotiating an agreement among the Parties in order to avoid the issuance of a CAO that would include the four parties. During a meeting held at this Regional Board on January 8, 1993, Regional Board staff reiterated that a CAO would be issued for the subject site due to the substantial delay of the required assessment work. On this date, the Parties agreed to submit a work plan addressing the requirements stated in our letter dated March 27, 1992 by February 28, 1993. The Parties would also continue the negotiation and send a letter of intent by January 31, 1993.
15. On January 29, 1993, a Letter of intent was submitted by Champion's counsel, Hopkins & Sutter. In the Letter, the Parties agreed to conduct the required assessment work and designated a representative of Champion as their contact person. The due date for the submittal of the work plan was extended first to March 31, 1993 and then to April 30, 1993 by Regional Board staff in an enforcement letter dated March 19, 1993, and in a second letter dated April 6, 1993, respectively. On May 6, 1993, Environmental Support Technologies, Inc. (EST) submitted on behalf of the Parties, the "Work Plan to Perform a Soil Gas Survey," dated May 5, 1993. In a Regional Board staff letter dated July 13, 1993, a revised soil gas survey work plan and a ground water monitoring program for the three monitoring wells located in the adjacent Creftcon Industries site was required by August 16, 1993.
16. A revised "Work Plan to Perform a Soil Gas Survey," dated May 5, 1993, was received on August 9, 1993, and a "Work Plan to Perform a Groundwater Monitoring," dated August

- 12, 1993, was received on August 26, 1993. These work plans were submitted by EST, on behalf of the Parties. The work plans were conditionally approved in a Regional Board staff letter dated September 21, 1993. A supplemental soil gas investigation report, a ground water monitoring report, and a work plan for the balance of the required investigation were due by November 15, 1993.
17. EST submitted on November 16, 1993, on behalf of the Parties, the "Soil Gas Survey Report," dated October 19, 1993. During October 1993, EST collected supplemental soil gas samples in several areas of the subject site. This assessment work was conducted to delineate the horizontal and vertical extent of VOCs contamination. Laboratory analysis of soil gas samples resulted in the detection of maximum VOCs concentrations of 1773.4 µg/l of PCE at 18' bgs, 93.4 µg/l of c-1,2-DCE at 5' bgs, 58.9 µg/l of TCE at 5' bgs, and 45.1 µg/l of 1,1,1-TCA at 5' bgs. The highest VOCs concentrations were detected in the former vapor degreaser area and northwestern section of the Property.
 18. On behalf of the parties, EST submitted on December 23, 1993, the "Groundwater Monitoring Report, Creftcon Wells," dated November 17, 1993. On October 25, 1993, EST collected and analyzed ground water samples from three ground water monitoring wells located in the adjacent Creftcon Industries site. Analysis of the ground water samples indicated VOCs impact to ground water quality from on-site sources. Maximum VOCs concentrations detected were 150 µg/l of PCE in monitoring Well P-1, 7.9 µg/l of 1,1-DCE in P-1, 9.4 µg/l of TCE in P-1, and 53 µg/l of trichlorofluoromethane (TCFM) in P-3.
 19. On December 22, 1993, EST submitted on behalf of the Parties, the "Work Plan for Drilling, Soil Sampling, and the Installation of Two Groundwater monitoring Wells," dated October 28, 1993. In a Regional Board staff letter dated April 18, 1994, the work plan was conditionally approved and a ground water investigation report was required by May 21, 1994. Also, upon review of the two assessment reports, Regional Board staff required the preparation of a cleanup plan to address the identified VOCs source areas. An extension for the submittal of the required report to July 25, 1994, was granted by Regional Board staff in a letter dated June 8, 1994.
 20. A "Site Assessment Report on Soil Sampling and Groundwater Monitoring, Well Installation," dated July 18, 1994, was received at this Regional Board on May 30, 1995. This report was submitted by EST on behalf of the Parties. On June 9, 1994, EST installed three (3) ground water monitoring wells to assess hydrogeologic conditions beneath the subject site. Seven soil matrix samples were collected from the three soil borings drilled for the installation of the monitoring wells. Up to 16 µg/kg of PCE was detected 10' bgs in the northwestern section of the site. Analysis of ground water samples collected on June 20,

1994, indicated VOCs impact to ground water quality beneath the Property. Maximum VOCs concentrations detected were 860 µg/l of PCE in monitoring Well 825-B3, 15 µg/l of c-1,2-DCE in 825-B3, 13 µg/l of 1,1-DCE in 825-B1, and 31 µg/l of TCFM in 825-B1. The detected VOCs concentrations exceeded maximum contaminant levels (MCL) established by the Department of Health Services. These findings indicate that unknown quantities of organic contaminants had entered the soil and ground water.

21. The discharge of waste at the Property has caused a condition of pollution in the underlying body of ground water. This discharge of waste is a violation of section 13264 of the California Water Code, which requires that any person proposing to discharge wastes to land must file a report of waste discharge and receive requirements from the Regional Board. Soto, Champion, Maremont, and Mrs. Lois Kipling have never submitted a report of waste discharge to land. This Regional Board has not considered nor adopted waste discharge requirements for discharge to land for this facility.
22. In a letter dated June 12, 1995, Regional Board staff required the Parties to submit a remedial action plan (RAP) to address the cleanup of on-site VOCs sources, and conduct quarterly ground water monitoring. A ground water monitoring report was due by August 31, 1995, and RAP was due by July 31, 1995.
23. On September 26, 1995, EST submitted on behalf of the Parties, the "Groundwater Monitoring Report (Revision 1), Third Quarter 1995 (Third Episode)," dated August 22, 1995. On March 24 and July 12, 1995, EST collected ground water samples from the three (3) existing on-site monitoring wells. Laboratory analysis of these samples detected up to 1,100 µg/l of PCE at 825-B3 during March 24, 1995, and 610 µg/l of PCE at 825-B3 during July 12, 1995. These findings continue to indicate VOCs impact to ground water from on-site sources.
24. In an enforcement letter dated August 15, 1995, Regional Board staff required the Parties to submit a RAP by September 30, 1995. Regional Board staff received a letter dated October 10, 1995, from Cohen, Alexander & Clayton, the counsel for Ms. Lois A. Kipling. The letter notes a delay in submission of the required RAP due to disagreement among the principals for the site. Also, in a letter dated December 22, 1995, counsel for Champion Parts, Inc., McDermott, Will & Emery, informed Regional Board staff that Champion would not fund the cleanup of the site unless an agreement among the Parties was reached otherwise enforcement measures may have to be taken to pressure the Parties to compromise. This last position was reiterated during a telephone conversation held on January 5, 1996, between Ms. Mary Ellen Hogan (McDermott, Will & Emery) and Regional Board staff.

25. In a letter dated December 28, 1995, the counsel for Soto Associates, Reznik & Reznik, noted that their client did not cause the contamination of the soil and stated that "the Board should require Champion, Maremont, and Mrs. Kipling to fulfill their legal obligations to investigate and remediate the property." During a telephone conversation held on April 1, 1996, between Mr. Albert M. Cohen (Reznik & Reznik) and Regional Board staff, the outstanding RAP was discussed and Regional Board staff mentioned that a CAO would be issued to all parties involved in the Property unless an appropriate RAP was submitted and the required quarterly ground water sampling was resumed. Regional Board staff reiterated these last comments in an enforcement letter dated August 13, 1996. A RAP and a ground water monitoring report were required by September 12, 1996.
26. On September 5, 1996, the attorneys for Champion, Maremont, and Mrs. Lois Kipling attended a meeting at this Regional Board. The three parties stated that they were willing to fund the remediation of the subject site and the additional monitoring providing that Soto agreed to share the cost. They also stated that the issuance of a CAO that included the Parties would assist them in reaching a compromise with Soto. The three parties agreed to submit a RAP by October 22, 1996. However, the actual implementation of the RAP would be subject to an agreement with Soto. These comments and proposals were reaffirmed in a letter dated September 26, 1996, submitted to Regional Board staff on September 30, 1996, and prepared by Champion's counsel, McDermott, Will & Emery. The due date was extended to November 6, 1996, as requested by Champion's counsel in a letter dated October 30, 1996.
27. During a meeting held at this Regional Board on October 8, 1996, Soto's representative, Mr. Gary Zamir, indicated that they could not afford to fund the remediation of the Property and the additional ground water monitoring. Mr. Zamir commented that Soto had stopped making payments on the Property loan and that the assessed property value had changed from \$1,122,000 to \$250,000 due to the identified environmental problems. He also noted that Soto bought the Property at full market price, thus, did not receive any discount related to environmental liabilities, has not operated at the site with chlorinated solvents, and based on a due diligence conducted by a consultant contracted by the bankruptcy court, did not have any reason to believe that the subject site was a VOCs source of contamination of ground water. Mr. Zamir finally added that if Soto is included in the CAO, it is very likely that they would have to file for bankruptcy.
28. Section 13304 of the California Water Code states, in part, that:

"Any person ... who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or

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nuisance, shall upon order of the Regional Board clean up such waste or abate the effects thereof or, in the case of threatened pollution or nuisance, take other necessary remedial action."

29. This enforcement action is being taken for the protection of the environment and as such is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et. seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED, that pursuant to California Water Code Section 13304, that Soto Associates, Champion Parts, Inc., Maremont Corporation, and Mr. Lois A. Kipling shall:

1. Cleanup and abate VOCs contamination of the vadose zone of the Soto Associates facility at 825 Lawson Avenue in the City of Industry, California.
2. Continue quarterly ground water monitoring investigation to characterize hydrogeologic conditions beneath the subject site.
3. Submit an acceptable RAP to remediate soil contamination at the subject site to this Regional Board for review and approval.
4. Submit an acceptable ground water monitoring report for the subject site to this Regional Board for review and approval.
5. Perform the above tasks according to the following time schedule:

<u>ACTION</u>	<u>WORK PLAN</u> (following review of reports from previous action)	<u>REPORT</u> (following approval of work plan)
A. Vadose zone remediation	July 25, 1998	Six (6) months and every three (3) months thereafter until remediation ceases.
B. Ground water monitoring	Not applicable	July 25, 1998, and every three (3) months for one year (October 25, 1998, January 25, 1999, April 25, 1999, and July 25, 1999).

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6. Provide Regional Board staff with two weeks advance notice of any planned physical alteration to the facility that may affect compliance with this order.
7. Provide Regional Board staff with thirty days advance notice of any planned changes in name, ownership, or control of the facility; provide notice to any succeeding owner or operator of the existence of this order by letter and forward a copy of such notification to Regional Board staff.
8. Monitoring wells are to be sampled on a quarterly basis for one year. At the end of this period, Regional Board staff may discontinue monitoring requirements or change the sampling frequency to semi-annual or annual. Analysis by EPA Method 601 or 624 will be required. Submit to this Regional Board quarterly ground water monitoring reports in accordance with San Gabriel Valley Cleanup Program guidelines.

This order may be revised by the Regional Board through its Executive Officer as additional information from the assessment(s) become available. The authority of the Regional Board, as contained in the California Water Code, to order investigation and cleanup additional to that described herein, is in no way limited by this order.

Failure to comply with the terms or conditions of this order may result in imposition of civil liabilities, either administratively by the Regional Board or judicially by the Superior Court in accordance with Section 13350, et seq., of the California Water Code, and/or referral to the Attorney General of the State of California for such action as he may deem appropriate.

Ordered by:

Dennis A. Dickerson
Executive Officer

Dated: June 25, 1998